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Her Natural Resources ...

ATTRACTIONS.

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PRIVATE LAND CLAIMS.

[Continued.]

But let us examine the colonization law of 1824—especially as to its applicability to land grants made by the Republic of Mexico in her province of New Mexico.—In the examination of law it is the fair and proper principle to look at the *whole law*, and construe it according to its general interest and purpose.

Section first of the decree (of the Mexican Congress) of August 18, 1824, respecting colonization, is as follows: "The Mexican nation promises to those foreigners who may come to establish themselves in its territory, security in the persons and property, provided they subject themselves to the laws of the country."

The 2nd section says, "The objects of this law are those national lands which are neither private property, nor belong to any corporation or pueblo, and can therefore be colonized."

Section 4 says, "Those territories comprised within twenty leagues of the boundaries of any foreign nations, or within ten leagues of the sea coast, cannot be colonized without the previous approval of the supreme general executive power."

The 12th section of the decree restricts the ownership of one person (colonist) to eleven square leagues in all

Now is it not sufficiently and clearly declared in this decree, that its *sole and only object and purpose* is to colonise "those foreigners who may come to establish themselves, etc., etc.," and the general intent to restrict *the granting of lands to* FOREIGNERS?

It will be seen that the restrictions as to locality and quantity are such as exclude foreigners from settling on the sea coast and frontiers of the Republic, and from acquiring such positions and strongholds as to endanger the country in the event of foreign war. This was evidently the *whole intent* and scope of this decree of the Mexican Congress. It is evident that it was not applicable, or intended to *apply to grants made to* MEXICAN *citizens*. The spirit, intent or *practice* under this decree does not sustain the idea that the Republic of Mexico in regulating donations of her public domain to *foreign colonists*, intended to restrict her right of sovereignty in the granting of her own public domain to *her own citizens*, nor is such a restriction at all sustained by the *practice*.

The daily practice of the Mexican government in all the states and provinces of the Republic since the acquisition of its independence of Spain, has been to grant to her own people the lands petitioned for by them, *within certain bounds and natural land marks, regardless of quantity or extent of area, or measurement of leagues, or restrictions mentioned in the decree of* 1824.

The records of every state and territory of the Republic of Mexico, the records of New Mexico, show the same practice in the granting of lands by her authorities duly empowered to do so, by the general government of Mexico, and further, *no grant thus made in New Mexico from* 1821 to 1848, *has been vacated or annulled by either the general government of Mexico, or the local government of New Mexico* acting under the authority of that general government. It is moreover a fact shown by the record, that no grant of land has ever been made in New Mexico—with any—the slightest regard to the decree of 1824, as to quantity of land or form of grant; and that with the exception of some ten or twelve grants, of all those which have been investigated, approved and confirmed, under the Act of the United States Congress of July 22, 1854, no mention is made of leagues or measured distances, or square leagues, except in one instance. The large majority of land grants in New Mexico made by the governments of Spain and Mexico, are described by natural objects as land marks, or artificial monuments, erected for the purpose by the officer placing the grantee in possession.

The facts therefore stand clearly proven, [illegible] add the remark, that in no appeal to the Supreme Court [illegible] States from any of the acquired territories, has the title of lands under a grant from Spain or Mexico, in other respects unobjectionable, been held void by that court, upon the sole ground that the quantity of land granted was in excess of *eleven square leagues*. or on the ground of any quantity of land it might contain within the boundaries described in the papers of the grant.

[illegible] ocurre [illegible] proteccion, in [illegible] stipulations con[illegible] of the treaty of Gua[illegible] cited.

[illegible] in constituting itself [illegible] correction of errors for [illegible] Republic of Mexico [illegible] *and to her own citi[illegible]* [illegible] zens, [illegible] of Guadalupe Hidalgo, [illegible]

1st. If finds no errors to correct that could [illegible] ably be acknowledged as such by the principal party in interest [illegible] government of Mexico having acknowledged and sanctioned. by long and continued practice, the granting of her own lands to her own citizens, greatly in excess of eleven square leagues.

2d. If such error existed in the execution of her own laws by the government of Mexico, Congress has no right under the constitution, the treaty, or the laws of nations, to correct it, as it cannot be a court of review over the administration by a foreign power of its own laws.

3d. Congress by such legislation violates the nation's faith, pledged to the Republic of Mexico to protect and guarantee to the Mexican inhabitants of the acquirred territories the property in land, and all other property which had been in their possession under their own government, and remainad theirs in legal possession, acknowledged by their government at the date of the treaty of Guadalupe Hidalgo—not a *part* of that property, or *such part* as Congress may decide that the Republic of Mexico had a right to give—but the *whole property* in the hands and possession of Mexican citizens, with the sanction of the Mexican government at the date of the treaty.

4th, The result of such legislation, if carried into effect, would be an inexcusable and unwarranted invasion of private rights, destruction of private interests—disregard of treaties, national and international law, heretofore unparalelled in our national legislation, or in the treatment of all civilized and enlightened nations, of the inhabitants of territories acquired either by conquest, treaty or purchase.

5th. Congress by such legislation assumes to reverse or ignore the decisions of the supreme court of the United States in a large number of cases, arising in acquired territories since the acquisition of Louisiana and Florida, and especially those arising in the recently acquired territory of California, in regard to the extent of grants of land. I will here refer to a few of them only.

In the case of *Higueras* vs. *The United States*, 5th Wallace, 827, the Supreme Court says: "That when the grant is made by specific boundaries, the grantee is entitled to the entire tract described,"

United States vs. *Sutherland*, 19 Howard, pages 363, 365, the court says: "Since the country (California) has become part of the United States, these extensive rancho grants, which then had little value, have now become very large and very valuable estates. They have been denounced as enormous monopolies, princedoms, etc., and this court has been urged to deny to the grantees, what it is assumed the former government had too *liberally and lavishly granted*. This rhetoric might have a just influence when urged to those who have a right to *give* or *refuse*. But the United States have bound themselves by a treaty to *acknowledge and protect* all *bona fide* titles granted by the previous government, and this court has no discretion to enlarge or curtail such grants, to suit our own sense of propriety, or defeat *just claims*, however extensive, by stringent technical rules of construction, to which they were not originally subjected."

United States vs. *Moreno*, 3d Wallace, pages 478, 491: *Broad* vs. *Tedey*, the Supreme Court held that "the cession of California to the United States did not impair the rights of private property—these rights are held sacred by the laws af nations, and protected by the treaty of Guadaloupe Hidalgo."

In the case of *The United States* vs. *Peralta, et al.*, 19 Howard, p. 347, the court says: "We have frequently decided that the public acts of public officers purporting to be exercised in an official capacity, and by public authority, shall not be presumed to be usurped; but that a legitimate authority has been previously given or subsequently ratified."

To these references to the opinion and decisions of the United States Supreme

IRRIGATION.

In th... States, east of about the 105d m... of longitude, west from Greenwic... gation is rarely resorted to, all the cereals growing to maturity without its aid. But west of that meridian to the Sierra Nevada it is essential to a sure and an abundant crop. Though it is viewed in the states to the east of us as an unnatural, a costly, and an unnecessary auxiliary to nature, and is unpopular, the new great west hereaway believes, and from experience has found to the contrary. It is an important and profitable part of our system of agriculture. To be understood and appreciated it must be seen in practice and through its effects. It costs less in money and labor than does clearing the lands in the eastern states, or draining them in the western. It fertilizes the land, the water being charged with fertilizing matter, and keeps up its producing capacity thereby.—It saves all loss of crop by drouth or irregular raintall. It enables the farmer to regulate his work to his will and convenience, a given amount of labor and attention to his fields thus going much further than when the work presses at irregular and uncertain times. And it often doubles or quadruples the crop cultivated by its means.

The United States surveyor general in a communication to the General Land Office of June 25. 1868, in writing of the barrens and desert lands in New Mexico, and the means of irrigating and reclaiming them, says:—

"Properly so called there are neither barren nor desert lands to any great extent in this district. The Territory is properly divided between valleys, which can be irrigated by the streams flowing through them, meses or table-lands—under which designation I class all the lands not mountain or irrigable valleys—and mountains. In a communication to the General Land Office in 1866 I estimated the arable lands of this district at one million acres. The term arable was used as synonymous with irrigable, as no lands can be cultivated here with any certainty of raising a crop without irrigation. There is a considerable rainfall during the months of July and August, but there is so little rain during April, May and June that without irrigatton crops will ordinarily perish.

"The method of irrigation is as follows:—Ditches or canals are excavated, and the water conveyed from the stream with just fall enough to preserve the full quantum or volume deemed necessary, and diverging from the stream as the surface of the land will permit, so as to include all the lands below, i. e. between the greatest elevation to which the ditch can be carried along the tract to be irrigated and the stream. The land is prepared for planting by laying it off in beds or lots averaging in size, according as the surface is level or otherwise, from a sixteenth part of an acre to two or three acres. Around each of these beds—which are required to be level or nearly so—there is raised a light embankment, six or eight inches above the level, clearing a shallow *acequia* between, through which the water is drawn, and from which the land is flooded to the depth of two or three inches, as often as required for the growth of the crop. The water being let through the embankment as above, and the beds covered to the the proper depth, the embankment is again closed, and the water left to be absorbed by the soil. The small irrigating ditches above described communicate with the main ditch, the *acequia madre*, but the water is only suffered to flow in them when needed for the irrigation of the land which they divide or to which they lead. To mature a crop of corn, wheat, barley or oats, the land should be irigated ordinarily once in ten to fourteen days. vegetables a little oftener; but during the months of July and August the rains supply much of the necessary moisture, so that irrigation during those months; or a portion of them, is often unnesary. It may be proper to state the amount of irrigable land is only limited by the amount of water in the stream—even the Rio Grande might all be used in the irrigation of the lands in its valley. The water supplied by irrigation not only affords the necessary moisture for the growth of vegetation, but also enriches the soil by depositing the sedimentary matter held in solution, and thus lands which have been under annual cultivation for more than two hundred years still produce excellent crops, without ever having been manured or restored by other means. It will be observed that to prepare land for planting, and to cultivate it properly by means of irrigation, requires very much more labor than where Providence sends the early and the latter rain; but it has its advantages also. If the farmer has a never-failing stream of water with which to irrigate his land, his crop need not be cut short by drouth, nor injured by excessive rains.